

(3) address of the facility;

(4) name of the board, office, or department that made the determination;

(5) the name and/or type of permit that the applicant applied for; and

(6) an explanation of why the applicant is making the appeal.

(c) An applicant may submit an appeal to the Secretary rather than the local environmental agency that is issuing the environmental permit regarding the time limits for processing a completeness determination on an environmental permit application and any accompanying submitted materials to a local environmental agency. The appeal shall be made under either of the following circumstances:

(1) The local environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943 of the Government Code.

(2) The local environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943 of the Government Code.

(d) The appeal shall include, at a minimum, the following information;

(1) name of the applicant;

(2) name of the business;

(3) address of the facility;

(4) name of the local environmental agency that made the determination;

(5) the name and/or type of environmental permit that the applicant applied for; and

(6) an explanation of why the applicant is requesting the appeal.

(e) There shall be a final written determination by the Secretary on the appeal not later than 60 calendar days after the receipt of the applicant's written appeal.

(f) Pursuant to subdivision (c) of Section 65943 of the Government Code, if the final written determination on the appeal is not made within the specified 60-day period, the application with the submitted materials shall be deemed complete.

(g) For the purpose of this section, "local environmental agency" does not include the agencies described in subdivisions (1) and (6) of Section 10100(j) of Title 27 CCR.

NOTE: Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 65943.5 and 65943, Government Code.

HISTORY

1. New section filed 7-12-95; operative 8-11-95 (Register 95, No. 28).

Chapter 4. Permit Consolidation Zone Pilot Program

Article 1. Scope and Applicability

§ 10400. Purpose.

(a) These regulations establish the implementation framework for a pilot program intended to offer a step toward reforming California's environmental permitting system to make it more responsive, efficient, and timely, while preserving California's commitment to a safe and healthful environment.

This pilot program, will allow the creation of up to twenty Permit Consolidation Zones among California's cities and counties. Within these zones, the current system of individually issued environmental permits will be augmented with a voluntary option allowing facilities to substitute a facility compliance plan in lieu of existing environmental permits for new or expanding facilities. The use of facility compliance plans is anticipated to expedite environmental permitting in the designated Permit Consolidation Zones and the pilot will provide an opportunity to test the facility compliance plan concept as a possible new model for environmental regulation.

The facility compliance plan represents a new regulatory approach and should be seen by those using these regulations as a new permit concept separate and distinct from existing environmental permits. The facility

compliance plan constitutes a replacement for existing environmental permits. Section 1 of Chapter 5 (commencing with Section 71035) of Division 34 of the Public Resources Code) establishes separate and distinct timeframes for the processing of facility compliance plans. The facility compliance plan must contain all the information required by existing permits and, in addition, represents an opportunity for the compilation of a comprehensive, multimedia statement of environmental operations and management at a facility.

These regulations implement this program. Elements of the regulations include the application and competitive selection process for those communities who wish to join the pilot, a procedure for facilities to opt into a facility compliance plan, and a process to institute coordinated inspection and enforcement activities for facilities authorized by a facility compliance plan.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.1 through 71035.11 inclusive, Public Resources Code.

HISTORY

1. New chapter 4, article 1 (section 10400) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 2. Definitions

§ 10401. Definitions.

(a) The definitions contained in this section shall apply only to these regulations.

(1) "Complete and adequate" means a determination by a permitting authority that a facility compliance plan contains all the information required by Sections 71035.5(b) and 71035.6(b) of Chapter 5 of Division 34 of the Public Resources Code. A finding that a facility compliance plan is completed and adequate, incorporating all additional conditions as required by the permitting authority, shall result in the approval of the plan for the portion of the plan addressed by the permitting authority.

(2) "CUPA" means a certified unified program agency as designated under Chapter 6.11 of Division 20 of the Health and Safety Code.

(3) "Day" means for the purpose of these regulations, calendar days.

(4) "Environmental permit" means any environmental permit issued by an environmental agency or a certified unified program agency.

(5) "Excluded Facility" means any facility involved in the following operations or activities:

(A) The incineration of wastes. Incineration does not include any combustion process used as part of an air pollution control system.

(B) The storage, treatment, transportation, or disposal of radioactive materials.

(C) Other activities that the Secretary for Environmental Protection determines, prior to approval of an application for a Permit Consolidation Zone, and based on risks to the environment and to the public health and safety, to be appropriately regulated through individual permits.

(D) Other activities excluded as requested by a city or county in its Permit Consolidation Zone application.

(6) "Expanding Facility" means any facility, located within a Permit Consolidation Zone which:

(A) Is physically in existence at the time the facility compliance plan is submitted;

(B) Is in compliance with all applicable regulations prior to the date of submittal of a facility compliance plan to the Permit Consolidation Zone Administrator; and

(C) Requires a new or amended environmental permit to conduct a new or modified activity.

(7) "Facility" means the site presently engaged in or at which an activity is planned that is required to obtain authorization from a permitting authority for that activity.

(8) "Facility Compliance Plan" means a document that incorporates all of the following:

(A) Contains information and data for all emissions and discharges from the facility and the management of solid waste and hazardous waste,

including all information relevant to individual environmental permits that would otherwise be required for the facility.

(B) Specifies measures, including, but not limited to, monitoring, reporting, emissions limits, materials handling, and throughputs, to be taken by the project applicant to ensure compliance with all environmental permits that would otherwise be required.

(C) Meets the requirements of all individual environmental permits that would otherwise be required.

(D) Ensures compliance with all applicable environmental laws, regulations, and ordinances.

(9) "New Facility" means any facility, located within a Permit Consolidation Zone, which was not physically in existence prior to the date of submittal of a facility compliance plan to the Permit Consolidation Zone Administrator.

(10) "Permitting Authority" means those governmental entities identified by subdivisions (a) to (g), inclusive of Section 71011 of the Public Resources Code, specifically including:

(A) The Department of Toxic Substances Control

(B) The Department of Pesticide Regulation

(C) The State Air Resources Board

(D) The State Water Resources Control Board

(E) The California Integrated Waste Management Board

(F) The Office of Environmental Health Hazard Assessment

(G) The Regional Water Quality Control Boards

(H) Air Quality Management Districts and Air Pollution Control Districts as defined in Section 39025 of the Health and Safety Code.

(I) An enforcement agency, as defined in Section 40130 of the Public Resources Code (Local Enforcement Agencies operating under the authority of the Integrated Waste Management Act).

(J) A county agricultural commissioner with respect to his or her administration of Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(K) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(L) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code (pretreatment to Publicly Owned Treatment Work (POTW) programs).

(M) Certified Unified Program Agencies (CUPAs).

(N) Any other environmental or related permitting authority that elects to become a participating agency within the Permit Consolidation Zone.

(11) "Permit Consolidation Zone" means a geographical area, contiguous or non-contiguous, designated by and within the jurisdiction of a city or cities or a county or counties or both, and approved by the Review Panel, within which a facility compliance plan may be substituted for all environmental permits otherwise required. A Permit Consolidation Zone specifies the types of facilities that are eligible to operate under the authority of a facility compliance plan.

(12) "Plan Applicant," means the facility owner and/or operator responsible for the preparation of a facility compliance plan.

(13) "Review Panel," means the panel composed of the Secretary for Environmental Protection and the Secretary for Trade and Commerce. The Review Panel is empowered to review applicants for and designate Permit Consolidation Zones.

(14) "Zone Administrator," means the individual or agency designated by the Zone Applicant to be responsible for the administration of the zone. The zone applicant may designate any person within any organization it deems appropriate to perform these duties, including but not limited to a Cal/EPA Permit Assistance Center or a Certified Unified Program Agency.

(15) "Zone Applicant" means a California city or county, individually or together, seeking to be designated as a Permit Consolidation Zone.

(16) "Zone Applicant Governing Authority" means the duly constituted governing board for a city or county within the State of California

usually a city council in the case of a city or the board of supervisors in the case of a county.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6, 71035.8 and 71305.10, Public Resources Code.

HISTORY

1. New article 2 (section 10401) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 3. Permit Consolidation Zone Application Process

§ 10402. Eligibility for Designation as a Permit Consolidation Zone.

(a) Cities or counties with a population greater than 5,000, based upon the 1990 census, are eligible to apply for a Permit Consolidation Zone which may constitute all or part of their jurisdiction.

(b) Cities and counties, individually or together, may apply for a Permit Consolidation Zone.

(c) Not more than 20 Permit Consolidation Zones may be designated. Applications approved shall represent a diverse range of urban and rural counties and small and large cities.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71035.3, Public Resources Code.

HISTORY

1. New article 3 (sections 10402-10408) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10403. Procedures for Submittal of a Zone Application.

(a) Any qualifying city and/or county may submit an application for a Permit Consolidation Zone after the effective date of these regulations.

(b) An application for a Permit Consolidation Zone shall be submitted to the Review Panel not later than December 31, 1997. The Secretary for Environmental Project, may at his discretion, extend the period of time to apply to be a zone.

(c) The city and/or county preparing the application for a Permit Consolidation Zone is responsible for obtaining all the necessary agreements required in Section 10404(a)(14) with participating permitting authorities.

(d) A Zone Applicant is required to provide notice to the public and all interested parties of its submittal of an application for designation of a Permit Consolidation Zone by conducting a public hearing 30 days prior to submittal of the application.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71035.3, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10404. Informational Requirements for an Application for a Permit Consolidation Zone.

(a) The zone application shall:

(1) Identify an individual or agency who shall perform the duties of the Zone Administrator.

(2) Designate one primary point of contact for each participating permitting authority within a zone including title, address, phone number, and, if available, the facsimile number and e-mail address of the contact.

(3) Identify the area which is being designated as a Permit Consolidation Zone. This shall include a description of the area and a listing of the types of facilities specifically included within the zone, a map showing the zone boundaries, the boundaries of the applicant's jurisdiction, and the boundaries of adjacent jurisdictions.

(4) Identify the population of the city or county based on the 1990 census.

(5) Identify the environmental permits to be substituted by the facility compliance plan.

(6) Identify the types of facilities which the Zone Applicant will prohibit from inclusion within the Permit Consolidation Zone.

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(7) Include a copy of the resolution adopted by the Zone Applicant's governing authority that approves the creation of a Permit Consolidation Zone.

(8) Identify any efforts to reform or expedite permit procedures or requirements that constitute permit streamlining that have been implemented by the Zone Applicant's jurisdiction(s) or the environmental agencies participating in the proposed Permit Consolidation Zone.

(9) Identify if there is a single CUPA within the boundaries of the proposed Permit Consolidation Zone.

(10) Identify the public notice requirements that currently exist for the individual environmental permits that will be substituted by a facility compliance plan.

(11) Identify the public notice, hearing, comment, participation, administrative appeal, and judicial review provisions that apply to a Plan Applicant within the proposed Permit Consolidation Zone.

(12) Identify the steps taken, in addition to the public notice requirement in Section 10402(d), to inform the public and businesses located within a proposed zone of the zone applicant's intent to apply for a Permit Consolidation Zone.

(13) Identify the permitting authorities which have agreed to participate in the Permit Consolidation Zone.

(14) Identify the agreements or agreements in process, between the zone applicant and other local, state, federal, and regional permitting agencies with jurisdiction within the boundaries of the proposed Permit Consolidation Zone. These agreements shall represent and describe the commitment of the permitting authority to participate in a Permit Consolidation Zone. The Zone Applicant shall submit all approved agreements with the application package. The approved agreements must:

(A) Be binding on the parties executing the agreement;

(B) Clearly identify the permits to be substituted by a facility compliance plan; and

(C) Identify the appeal process to be used in the event a facility wishes to appeal a determination of incompleteness and/or inadequacy.

(15) Identify any and all military bases or military reservations being converted to private use within the boundaries of the proposed Permit Consolidation Zone.

(16) Identify how permitting authorities will cooperate on facility compliance inspections, consolidation of permit fees, and review and submittal of environmental monitoring reports.

(17) Identify the process for conversion of a facility compliance plan to individual environmental permits, in the event of termination of the Permit Consolidation Zone, withdrawal of a permitting authority from a Zone, or upon the request of a facility who has received a facility compliance plan.

(18) Identify how the California Environmental Quality Act (CEQA) will be complied with and implemented within the proposed Permit Consolidation Zone and who will be responsible.

(19) Provide information that shows the proposed Permit Consolidation Zone is in conformance with all planning and zoning restrictions applicable to the permits to be substituted by a facility compliance plan within the zone.

(20) Identify all economic incentive zones that exist within the Permit Consolidation Zone.

(21) Identify the fees assessed for each individual permit application that may be incorporated within the consolidated fee statement for a facility compliance plan application.

(22) Identify steps zone applicant will use to encourage businesses within a zone to practice pollution prevention.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10405. Process for Approval of an Application for Designation of a Permit Consolidation Zone.

(a) The Review Panel shall evaluate the adequacy of an application for designation of a Permit Consolidation Zone. In conducting this review the Review Panel may rely upon staff from either agency to evaluate the application materials.

(1) The Review Panel shall, within 60 days of receipt of the application, either (a) convey a letter of deficiency to the zone applicant identifying and requesting submittal of information that will allow the Review Panel to make a determination on the zone designation, or (b) advise the zone applicant that the zone application contains the information necessary to make a designation.

(2) In the event a letter of deficiency is sent to the zone applicant, the zone applicant shall submit information correcting the deficiency, at the earliest opportunity, but in no event after June 30, 1998. The Review Panel shall have 60 days to conduct its review of the submitted information to determine if the application is complete.

(3) Zone applications shall be acted upon by the Review Panel within 30 days of their being found to contain all the necessary elements to allow a zone determination to be made.

(4) The zone applicant shall be notified of the Review Panel's determination in writing.

(5) A Permit Consolidation Zone shall become effective following its designation by the Review Panel. A Zone Applicant may determine a specific date following approval by the Review Panel for the Zone to become operational.

(6) An application for a Permit Consolidation Zone that remains deficient after June 30, 1998 shall be denied.

(b) When evaluating a zone application, the Review Panel shall consider the following factors:

(1) The extent to which the zone applicant has implemented permit streamlining for permits under its own authority.

(2) Whether there is a single CUPA within the boundaries of the area proposed as a zone.

(3) The provisions made to ensure adequate public participation in the final permit decisions on facilities subject to a facility compliance plan.

(4) The contents of existing or proposed agreements between the applicant and other local, state, and regional permitting agencies with jurisdiction within the proposed Permit Consolidation Zone.

(c) The Review Panel shall make its determination of approval of a zone application only on the basis of and after finding that the application fulfills the requirements of Sections 10402, 10404, and 10405(b).

(d) The Review Panel shall make its zone designations based upon the applications that are pending before it at the time a decision is made.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10406. Responsibilities of the Zone Administrator.

(a) The Zone Administrator shall have the following responsibilities:

(1) Ensure that the Review Panel has all the necessary information it may request to allow it to render a decision on the zone application.

(2) Monitor the coordination and cooperation of all participating and related permitting authorities.

(3) Monitor the review of facility compliance plans by permitting authorities and facilitate the greatest possible coordination between the permitting authorities to expedite their review.

(4) Submit to the Plan Applicant a consolidated fee statement that specifies the individual fees payable to each permitting authority making a determination of completeness and adequacy for a portion of the facility compliance plan.

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(5) Monitor activities performed by permitting authorities to conform to CEQA.

(6) Ensure the transmittal of the facility compliance plan, following the receipt of all determinations of completeness and adequacy, to the Secretary for Environmental Protection.

(7) Immediately notify the Plan Applicant when a complete and adequate facility compliance plan has been transmitted to the Secretary for Environmental Protection.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71305.10, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10407. Process for Amendment or Termination of a Zone Designation.

(a) A designated Permit Consolidation Zone may be amended by submittal of a request from the Zone Administrator to the Review Panel.

(1) The amendment request shall contain the information necessary to augment the information provided in the application materials required by Section 10405 to make those materials consistent with the requested amendment.

(2) Public notice of an intent to amend a zone designation shall become effective 90 days prior to the Zone's governing board's action directing the submittal of a "request to amend" to the Review Panel.

(3) The request for amendment, unless denied by the Review Panel, shall become effective 90 days after the date of receipt by the Review Panel.

(b) A designated Permit Consolidation Zone may be terminated by submittal of a notice of intent to terminate to the Review Panel.

(1) A transmittal letter and concurring resolution adopted by the Zone's governing authority shall constitute a notice of intent to terminate a Permit Consolidation Zone.

(2) Notice of the intention of the Zone to terminate its designation shall be provided by the Zone's governing board 30 days prior to formal consideration of the termination to each participating permitting authority and all facilities within the Zone who have applied for or who have received approved facility compliance plans.

(3) Public notice of an intent to terminate a zone designation shall be provided fourteen days prior to the Zone's governing board's action directing the submittal of a "notice of intent to terminate" to the Review Panel.

(4) The Permit Consolidation Zone shall be terminated 180 days following the submittal of the notice of intent to the Review Panel.

(c) A permitting authority participating in a Permit Consolidation Zone may withdraw from the Zone by following the procedures set forth in subpart (b) above.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3 and 71035.4, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10408. Termination or Amendment of Permit Consolidation Zones; Process for Conversion of a Facility Compliance Plan to Individual Environmental Permits.

(a) A facility compliance plan shall be converted into individual environmental permits when a zone is terminated or if a zone amendment results in the facility no longer being included within the zone.

(b) The process of conversion shall be the process identified in the application for designation of the Permit Consolidation Zone.

(c) A facility compliance plan shall remain in effect, unless otherwise prohibited by law, until such time individual environmental permits are issued or denied by the permitting authorities. A facility operating under a facility compliance plan shall not be denied an individual operating permit for the operations conducted pursuant to a complete and adequate facility compliance plan except in the case such operation would be in con-

flict with a law or regulation or ordinance applicable at the time the facility compliance plan would be converted to an individual permit.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 4. Facility Compliance Plan

§ 10409. Contents of the Facility Compliance Plan.

(a) The Plan Applicant shall prepare and submit a proposed facility compliance plan for review by the individual permitting authorities.

(1) The proposed facility compliance plan shall demonstrate compliance with all applicable environmental laws, rules, regulations, and ordinances specified by the permitting authorities for the activity to be authorized by the facility compliance plan.

(2) The proposed facility compliance plan shall contain the information required by Section 10401(a)(8).

(b) The proposed facility compliance plan may incorporate the following optional elements, provided they are not otherwise required by a permitting authority, with the understanding that they shall not constitute a substitute for any existing regulatory compliance requirements:

(1) Identification of relevant environmental impacts associated with the operation of a facility;

(2) Identification of operational standards for environmental performance which meet or exceed all permit and other legal requirements;

(3) A description of an internal environmental management procedures which enable the facility to meet its legal requirements;

(4) A monitoring and reporting system which identifies operational performance and identifies any excursion from established goals;

(5) Appropriate training, awareness, and communication systems for the organization;

(6) Appropriate documentation and document control;

(7) Consolidated plans for appropriate emergency preparedness and response;

(8) Procedures establishing internal audits; and

(9) Procedures for appropriate supervisory review of performance in meeting established environmental goals.

(c) A facility compliance plan shall contain the conditions deemed necessary by a permitting authority to render a plan complete and adequate. The conditions imposed by a permitting authority shall be consistent with its authority to impose conditions on individual environmental permits for which the facility compliance plan is a substitute.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New article 4 (sections 10409-10411) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10410. Process for Submittal, Review, and Approval of a Facility Compliance Plan.

(a) Notification

(1) A Plan Applicant shall provide written notice to the Zone Administrator and each participating permitting authority within the Zone of its intent to substitute a facility compliance plan for individual environmental permits. The notice shall provide a description of the activities to be conducted under the terms of a facility compliance plan.

(2) The Zone Administrator shall develop a form or checklist to be used by the Plan Applicant to augment the information provided in the notice. The contents of the form or checklist shall be used to allow the participating permitting authorities to review the nature of the proposed facility operation to determine if the activity falls under their jurisdiction.

(3) A notice of intent to submit a proposed facility compliance plan shall be provided to the Zone Administrator and each participating permitting authority not less than 60 days prior to submittal of the plan.

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(4)(A) The Zone Administrator shall, during the public notice period preceding submittal of a proposed facility compliance plan for consideration, facilitate discussions with the Plan Applicant and the individual permitting authorities to clarify the technical information required in a complete and adequate facility compliance plan.

(B) At any time subsequent to the sixty-day notification period, a Plan Applicant may submit a proposed facility compliance plan to the Zone Administrator.

(b) Where feasible and practicable, and at the request of the Zone Administrator, California Environmental Protection Agency Permit Assistance Centers may participate in the review of a proposed Facility Compliance Plan.

(c) The Plan Applicant shall submit a copy of a proposed facility compliance plan concurrently to the Zone Administrator and to each permitting authority participating in the zone from whom a determination of completeness and adequacy is required.

(d)(1) The permitting authorities reviewing the proposed facility compliance plan shall transmit their determination whether the proposed plan is complete and adequate to the Plan Applicant and Zone Administrator within 45 days of receipt of the plan.

(2) The Zone Administrator shall, within five (5) days of receiving all required determinations of completeness and adequacy from the appropriate permitting authorities, transmit the consolidated determination to the Secretary for Environmental Protection.

(e) If the proposed facility compliance plan is determined not to be complete and adequate, the permitting authority shall, not later than 45 calendar days after receipt of a proposed facility compliance plan, specify in writing to the applicant and Zone Administrator those parts of the plan that are deficient and shall list and provide a thorough description of the information that must be provided to allow a determination of completeness and adequacy to be made.

(f) The Plan Applicant shall resubmit the proposed facility compliance plan incorporating the information required by the permitting authorities to render the plan complete and adequate. The permitting authorities shall, within 30 days of receipt of the resubmitted plan, determine in writing whether the proposed plan is complete and adequate. The permitting authorities shall transmit their determination to the Zone Administrator and the Plan Applicant. If the determination of completeness and adequacy from any individual permitting authority is not provided within the 30-day period, the portion of the proposed facility compliance plan applicable to the permitting authority that did not meet that determination deadline, shall be deemed to be complete and adequate.

(g) Each permitting authority shall identify, in the application for designation of a Permit Consolidation Zone, a process for the Plan Applicant to appeal a determination of incompleteness or inadequacy. This process shall be the permitting authority's existing appeal process, or, in the event the existing process is not in conformance with the time frames provided by these regulations, a separate process adopted by the permitting authority's governing body.

(h) The permitting authority shall make a final determination of an appeal by a Plan Applicant within 60 calendar days after receipt of the Plan Applicant's written appeal. If the decision on appeal is not made within the 60-day period that portion of the facility compliance plan subject to the appeal, shall be deemed to be complete and adequate.

(i) All applicable individual environmental permits for the project shall be deemed to have been issued upon the filing of a complete and adequate facility compliance plan with the Secretary for Environmental Protection.

(j) The Plan Applicant and any permitting authority may mutually agree to waive the timeframes provided in this section or establish a mutually agreed upon substitute timeframe.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10411. Process to Amend a Facility Compliance Plan.

(a) A facility compliance plan shall be drafted in such a manner as to reflect a range of operating parameters that will anticipate future operations and which provide flexibility to the Plan Applicant.

(b)(1) In the event a facility seeks a modification of operational terms beyond that contemplated and authorized by the facility compliance plan, the facility shall submit an amended facility compliance plan for consideration. The amended plan shall be reviewed pursuant to the provisions identified in Section 10410 for a new facility compliance plan.

(2) Only the portion of the plan which is being amended will be subject to review by the permitting authorities.

(3) No additional requirements shall be imposed within an amended facility compliance plan except as they are specifically applicable to the subject of the activity for which the amendment is sought.

(4)(A) A facility compliance plan shall be subject to any provision of law or regulation adopted subsequent to the approval of the plan. At the request of a permitting authority, a facility operating under a facility compliance plan may be required to incorporate language within the plan to reflect compliance with laws and regulations adopted subsequent to the initial determination of completeness and adequacy.

(B) A facility shall submit an amended facility compliance plan to a permitting authority whenever submission of an amended application for an environmental permit, for which the facility compliance plan is a substitute, would otherwise be required by law.

(5) If a provision of a facility compliance plan is found by a permitting authority to cause or threatens to cause a threat to public health or safety, or harm to the environment, the plan shall be subject to immediate modification to remove that threat or harm.

(c) To the extent not otherwise authorized by law or regulation, amendment of a facility compliance plan is not required for any of the following:

(1) Any physical change, process change, change in method of operation, addition to or any change in hours of operation, or change in the production rate, provided the change does not result in an increase in or change, in the nature of emissions or discharges from the facility beyond that contemplated in the facility compliance plan;

(2) A change in ownership, or operator;

(3) Routine maintenance and repair;

(4) Equivalent replacement of an existing facility structure, building, apparatus, or equipment, provided the replacement will not result in an increase in the nature or amount of emissions or adds a new emission parameter inconsistent with the overall emission limits set by the facility compliance plan, and/or

(5) Replacement of equipment resulting in an increase or decrease in emissions or discharges released to the environment, provided the increase is consistent with the terms of the facility compliance plan setting overall emission limits.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 5. Miscellaneous Provisions

§ 10412. Assessment of Fees.

(a)(1) Permit application fees, payable upon submittal of a facility compliance plan, shall be determined by each permitting authority and conveyed to the Plan Applicant in a single consolidated statement prepared by the Zone Administrator. The fees assessed for the facility compliance plan shall not exceed those fees applicable to the permits for which the facility compliance plan is a substitute. All costs currently recovered by a permitting authority for any aspect of the review of a permit application shall be recoverable through the fee assessed for a facility compliance plan. Any fee associated with the operation of a facility is not affected by these regulations and is payable to the permitting authority through their existing procedures.

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(2) The fees submitted with the facility compliance plan shall be through separate checks payable to each permitting authority for that portion of the plan subject to their review.

(3) Where fees are allowed to be determined on an actual cost basis, the consolidated fee statement shall indicate that the fee is so based. Permitting authorities shall take adequate measures to account for fees not expended in the event a fee reimbursement becomes necessary.

(4) In the event a facility compliance plan is amended, or a participating permitting authority withdraws from a Zone, or a Zone is terminated, a facility shall pay to the appropriate permitting authority the actual cost to incorporate the amendment, or convert the facility compliance plan to an individual environmental permit.

(5) Until such time as the requisite fees for a facility compliance plan application or amendment are paid, the 45-day review period identified in Section 10410(d)(1) shall be tolled.

(6) A facility compliance plan shall be subject to all annual operating fees otherwise required for an individual environmental permit. Non-payment of any annual operating fee shall subject the portion of the facility compliance plan to termination upon 60 day notice to the facility.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New article 5 (sections 10412-10418) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10413. Effective Date of a Facility Compliance Plan.

(a) A facility compliance plan becomes effective upon the date all elements of a complete and adequate plan are received by the Secretary for Environmental Protection.

(b) A facility shall not construct or expand until notified, in writing, that the facility compliance plan for such construction or expansion has been determined to be complete and adequate by all appropriate permitting authorities, except as otherwise authorized by law.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.8, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10414. Facility Compliance Plan Format.

(a) No format is specifically identified in these regulations for the submittal of an application for either a Permit Consolidation Zone or a facility compliance plan. A designated Permit Consolidation Zone may prescribe the format to be used for a facility compliance plan in the application submitted for its designation as a zone.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10415. Facility Compliance Plan; Term.

(a) Unless otherwise restricted by law, a facility compliance plan is effective throughout the term of the pilot program and until converted into individual environmental permits as provided in Section 10408.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.7, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10416. Reimbursement of Fees in the Event a Permit Consolidation Zone is Amended or Terminated or a Facility Compliance Plan is Withdrawn.

(a) Fees submitted by a Plan Applicant for review of a facility compliance plan shall, in the event of amendment or termination of a Zone removing a facility from inclusion within a Zone, or upon the withdrawal

of the plan by the facility owner/operator, be reimbursed on a pro-rata basis reflecting the costs incurred by the permitting authorities for review of the facility compliance plan, except in those cases where the application fee for the individual environmental permit being replaced by the facility compliance plan offers no opportunity for reimbursement.

(b) In the event of amendment or termination of a Zone removing a facility from inclusion within a Zone and the Plan Applicant wishes to obtain approval for the facility, the portion of the fee that would otherwise be reimbursed to the Plan Applicant may be applied to the review of individual permits.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10417. Enforcement of Facility Compliance Plan.

(a) A facility compliance plan shall, in all respects, be subject to enforcement by a participating permitting authority the same as if it were an individual permit issued by the permitting authority.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

§ 10418. Confidentiality.

(a) These regulations do not modify any ability of a Plan Applicant or permitting authority to preserve the confidentiality of portions of the facility compliance plan that qualify for such designation under existing authority.

(b) The Zone Administrator and any participating permitting authority shall maintain the confidentiality of any portion of the facility compliance plan requested by the Plan Applicant in conformance with existing procedures for the protection of confidential documents submitted as part of a permit application.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5 and 71035.6, Public Resources Code.

HISTORY

1. New section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

Article 6. Reporting and Review

§ 10419. Reports Required to Be Submitted by the Zone Administrator to the Review Panel.

(a) By December 31 of each year, the Zone Administrator shall submit a report to the Review Panel that states the progress of implementation of the program within the pilot Permit Consolidation Zone. The reports, shall at a minimum, contain:

(1) The number of facilities that have submitted a facility compliance plan and the status of that plan in the review/approval process;

(2) Whether any Plan Applicant used the facility compliance plan appeal process and the outcome of that appeal;

(3) Any written comments received from any party regarding the implementation of the pilot program;

(4) Any recommendation the Zone Administrator wishes to convey regarding the implementation of the pilot program and/or proposed changes in legislative language; and

(5) Any other information the Zone Administrator wishes to convey or which has been requested by the Review Panel.

NOTE: Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71305.10, Public Resources Code.

HISTORY

1. New article 6 (section 10419) and section filed 5-22-97; operative 6-21-97 (Register 97, No. 28).

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